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THE SITUATION ROOM

**CDC Says 100,000-Plus New COVID Cases Recorded Wednesday;
Former DOJ Official Who Aided Trump Attempted Coup Facing New
Scrutiny from House Investigation; New York State Cuomo
Impeachment Probe Nears Completion; Interview with Arkansas
Governor Asa Hutchinson on Regrets Over Signing Mask Mandate
Ban. Aired 6-7p ET**

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[18:00:05]

WOLF BLITZER, CNN HOST: The CDC revealed today that information on deaths and hospitalization is incomplete. It's still unclear whether the new strain, the delta strain poses a greater threat to fully vaccinated Americans.

Just moments from now, I'll interview the CDC director, Dr. Rochelle Walensky. She is standing by live.

But, first, let's go to our Senior White House Correspondent Phil Mattingly for the late, breaking developments. Phil, how is the Biden administration responding to this devastating new wave of COVID?

PHIL MATTINGLY, CNN SENIOR WHITE HOUSE CORRESPONDENT: Wolf, for all of the different elements the federal government is trying to bring to bear to deal with this surge in cases, White House officials are unequivocal. There is one that matters more than any other, getting shots into arms. And they had seen some

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(BEGIN VIDEOTAPE)

MATTINGLY (voice over): Tonight, the White House ramping up its vaccination push as the U.S. passes 100,000 cases in a single day.

JEFF ZIENTS, WHITE HOUSE COVID-19 RESPONSE COORDINATOR: In seven states alone, Florida, Texas, Missouri, Arkansas, Louisiana, Alabama, Mississippi, states with some of the lowest vaccination rates, account for about half of new cases and hospitalizations in the past week, despite making up less than a quarter of the U.S. population.

MATTINGLY: A level that at one point seemed it would never be reached again. Yet with the delta variant surge gripping nearly the entire nation, a reality that's driven a return to a near singular daily focus, ramping up vaccinations.

DR. VIVEK MURTHY, U.S. SURGEON GENERAL: Today, I want to emphasize one fact that remains true, and that is the vaccines are working against the delta variant. MATTINGLY: Numbers that continue to tick upward with more 864,000 vaccinations on Wednesday, more than 560,000 first-time shots, the highest daily total in more than a month.

ZIENTS: Clearly, Americans are seeing the impact of being unvaccinated and unprotected, and they respond by doing their part, rolling up their sleeve and getting vaccinated.

MATTINGLY: But officials now acknowledging just how much remains unknown about the variant driving more than 90 percent of U.S. cases.

DR. ROCHELLE WALENSKY, CDC DIRECTOR: So, those data were data that were from analysis in several states from January through June and didn't reflect the data that we have now from the delta variant.

MATTINGLY: Revealing the actual data regarding hospitalizations and death for the vaccinated since delta surge hasn't been confirmed.

WALENSKY: We are actively working to update those in the context of the delta variant.

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as we look at our hospitalizations and as we look at our deaths, they are overwhelmingly unvaccinated people.

MATTINGLY: But with more than 90 million eligible Americans still unvaccinated, renewed focus on other mitigation efforts specially masking and vaccine mandates has devolved once again into a pitched political battle.

GOV. RON DESANTIS (R-FL): What is his big solution? What is he so upset about Florida? His solution is he wants to have the government force kindergarteners to wear masks in school. I don't want to hear a blip about COVID from you.

MATTINGLY: The days' long back and forth between the White House and Florida Governor Ron DeSantis still is effect.

JEN PSAKI, WHITE HOUSE PRESS SECRETARY: 25 percent of hospitalizations in the country are in Florida.

MATTINGLY: White House pointing to delta's surge in the state, making clear it has no plans to back down.

PSAKI: We're here to state the facts. Frankly, our view is that this is too serious, deadly serious, to be doing partisan name-calling. That's what we're not doing here.

(END VIDEOTAPE)

MATTINGLY (on camera): And, Wolf, the war of words between Florida Governor Ron DeSantis and the White House has extended to the cabinet level as well. Education Department Secretary Cardona, today, saying in the briefing room, basically chastising Florida and Texas about mask mandates saying bluntly, don't be the reasons our kids can't go back to school. They have suffered enough. Wolf?

BLITZER: All right, Phil Mattingly, over at the White House. Thank you very much.

Let's discuss this and more with the director for the Centers for Disease Control and Prevention, Dr. Rochelle Walensky. Dr. Walensky, thank you so much for joining us. We're grateful to you for helping our viewers appreciate what's going on.

You announced today that the CDC reported more than 103,000 new coronavirus cases just yesterday. What, six

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Walensky, a lot of nervous people out there, not just the unvaccinated but the vaccinated as well?

WALENSKY: Good evening, Wolf.

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You know, what we're seeing in our projections demonstrates two different extremes. If we work together, unify as a country, vaccinate everyone who is interested in unvaccinated and put our masks on to prevent disease, we could really control this in a matter of weeks. However, our models show that if we don't do so, we could be up to several hundred thousand cases a day. It's similar to our surge in early January.

BLITZER: When do you think that would happen? Right now, let's say, 100,000 cases a day, as I said, six weeks ago, 11,000 cases a day, when will it be 200,000 or 300,000?

WALENSKY: I'm certainly hoping we don't have to see that. We don't want to see that. And so I'm really --- I'm opting for the let's unify as a country, put our masks on to prevent transmission of disease and get vaccinated in the interim. What I would say is, you know, we can see these kinds of exponential rises we're seeing now in a matter of weeks, but that's not where I'm heading?

BLITZER: What about deaths? You said today we saw 614 new deaths reported to the CDC just on Tuesday of this week. A few weeks ago, there were 100, 200, now more than 600. What does it look like as far as deaths are concerned, deaths of Americans in the coming weeks and months?

WALENSKY: This is a critically important point one. When we have seen this number of cases before, we have seen far more deaths. And what that means is that our vaccines are working to prevent deaths. So, they're working to prevent hospitalizations and they're working to prevent deaths among those who are vaccinated. So the best way to stop those deaths from happening is to get vaccinated.

BLITZER: Are we nearing the peak of cases, Dr. Walensky, in the south in places like Florida, for example? Will we start to see case counts drop again anytime soon? WALENSKY: We have not seen that yet. We're still seeing exponential rises in Florida, in many -- in Louisiana and many of the southern states that are seeing these surges. And so, no, we're not quite there yet. And I certainly hope that now we're taking these matters seriously. I'm grateful to the governor of Louisiana who put forward masking and mask mandates and I want to encourage

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BLITZER: What are your models saying, Dr. Walensky, about the northeast, for example, where vaccination level are clearly higher? Should those states expect to see surges due to this awful delta variant as well?

WALENSKY: We know how to protect ourselves. Many of those places are vaccinated in the areas that have pockets of people who are unvaccinated. Again, we would encourage this will happen at the community level. So we would encourage vaccination across those areas so that we don't have pockets of surges around areas that might have been undervaccinated in the northeast region.

BLITZER: There are some things I would like to clear up while I have you, Dr. Walensky. In terms of communication, you clearly have data that's informing your decisions or you wouldn't be making these decisions. But a lot of experts are asking, why aren't you sharing that data right away or at least releasing it more quickly?

WALENSKY: Last Tuesday, we made the decision to advise masking America among those who are fully vaccinated, and that was decision based on data that we had seen just several days before and corroborated within hours or a couple of days before. We made those recommendations based on data.

We had -- the data were released on Friday, just three days later. And if we had waited to release the data, we would have had, you know, people who would unknowingly potentially bring virus to their loved ones, to their immunosuppressed loved ones. We felt it a moral imperative to inform the American public as soon as we knew and publish the data as soon as we could within three days of our guidance.

BLITZER: Yes. So that's really important to get that information out there. Do you think the CDC and others, for example, got the messaging wrong when it comes to breakthrough cases, people who are fully vaccinated but get COVID? Experts have insisted that breakthrough cases are rare, almost dismissing fears. But wouldn't it have been better to give a more nuanced explanation about what to expect?

WALENSKY: I think we all have to recognize that with 164 million people who are vaccinated, we should expect tens of thousands, perhaps, of breakthrough infections. But the most important thing, it is not the number of the breakthrough infections but what happens here.

Those breakthrough infections have mild illness. They are staying out of the hospital. They are not dying. And I think that that's the most important thing to understand. We have a massive number of people who are vaccinated and those breakthrough infections tend to be mild and not severe.

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Could they pass it on to their children? Could they pass the virus on to older people, especially more vulnerable people with underlying health conditions?

WALENSKY: And that's exactly the point that we made in our guidance.

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So, yes, they can with the delta variant. And that was the reason that we changed our guidance last Tuesday. Our vaccines are working exceptionally well. They continue to work well with delta with regard to severe illness and death. They prevent it.

But what they can't do anymore is prevent transmission. So if you are going home to somebody who has not been vaccinated to somebody who can't get vaccinated, somebody who might be immunosuppressed or a little bit frail, somebody who has co-morbidities that put them at high risk, I would suggest you wear a mask in public indoor settings.

BLITZER: Especially if there is a breakthrough case and you get COVID, you're fully vaccinated but you are totally asymptomatic, you can still pass on the virus to someone else. Is that right?

WALENSKY: That's exactly right. And that's where our masking recommendation came from.

BLITZER: It's so important these mask.

We're learning the FDA could lay out a national strategy, Dr. Walensky, for COVID-19 booster shots in early September, just in a few weeks. What will the strategy look like? Who will be eligible for these boosters first, all of us who got two shots we might need after five or six months a third shot?

WALENSKY: We're looking at those data carefully. Those data include looking at clinical cohorts, our clinical trials, cohorts from across the country, our essential workers, long term-care facilities, health care workers who were vaccinated early. And we're working closely with the FDA following those data and we'll come up with a plan soon in September.

BLITZER: And do you think that before that will happen, the emergency use authorization for these vaccines will

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WALENSKY: That lies squarely with the FDA. But I know that they're working very hard in order to get that full approval because I recognize that -- we all recognize that some people are waiting for that approval to get vaccinated.

BLITZER: So, what we're seeing in Israel, Germany and the United Kingdom right now, people are already starting or about to start getting these third booster shots. We could brace for that, we should anticipate that happening in the next few weeks here in the United States. Is that right?

WALENSKY: We're having conversations with those countries and we're looking at the same data that they are looking at and we are making our independent decisions looking at the data they have, collaborating with the data we have and we'll make those decisions in collaboration with the FDA.

BLITZER: All right. Well, I'm anxious to get my third shot if that's going to help. I'm sure a lot of people are anxious to get their third shot as well.

Why has the messaging from the CDC, Dr. Walensky, and other health experts for that matter on boosters at least, so far, been unclear? First, we were told we wouldn't need boosters. Then we were told information was coming. Other experts have said there is no evidence to support needing a booster. It's all been rather confusing.

WALENSKY: We are following the science. There is immunologic data. Some people are following the immunologic data and are reporting on the immunologic data. There is effectiveness data from those cohort studies across the nation, tens of thousands of people. We have not yet seen a signal that we require boosters from those studies.

So, we're looking at many different areas and everybody is assessing the science. As that science evolves, we will report that science to the American people.

BLITZER: 12 million Americans got the Johnson & Johnson single dose vaccine. If they get a booster, will it be Johnson & Johnson or Moderna or Pfizer?

WALENSKY: Those data are going to live with the FDA right now. They are looking at the data on what we're calling crossover studies, whether what you got the first time, you would get the same thing or a different vaccine. Those data are with the FDA right now.

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You have often said, Dr. Walensky, that what, 99 percent of the coronavirus deaths, 95 percent of the hospitalizations are among the unvaccinated. But when you were asked today by our Chief White House Correspondent Kaitlan Collins, you said those numbers were from January through June, June, and didn't reflect the data we have now from the delta variant, which I'm told by experts is entirely different than the older variants, very highly transmissible, much more deadly. Do you have updated data that includes the delta variant?

WALENSKY: We're working closely with the states and in touch with them in terms of their reporting. There was a terrific Kaiser Family Foundation analysis that was done, including 25 states that suggested that those data still hold, that over 99 percent of hospitalizations, over 99.9 percent of deaths still are in unvaccinated people in these hospitals. BLITZER: So, when do you think we could expect to see the new data on breakthrough hospitalizations and deaths? We're talking about fully vaccinated Americans in light of the delta variant. And does it closely reflect the statistics you have been citing that almost entirely all the hospitalizations and deaths are among unvaccinated?

WALENSKY: All of the data that I have seen to date have demonstrated that the severe disease, hospitalizations and deaths associated with COVID-19, even with the delta variant have suggested over 99 percent, the vast majority of people are unvaccinated, which is why it is so very important to get the people vaccinated.

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BLITZER: But if you are still evaluating the new data, why is President Biden, for example, still citing statistics that don't necessarily take into account this awful delta variant?

WALENSKY: You know, as the data come in, as we update the data, not all of our inpatients, for example, have a genomic sequence associated with their test, so we're continually updating the data. It's a very fluid situation.

BLITZER: How does the communication strategy evolve? Because there is a real serious problem out there, at least right now, and hopefully it will go away, of confusion. A lot of us are confused by what we're hearing, different things all the time.

WALENSKY: The American public wants certainty. I want certainty. I think we all want certainty. We want to understand the path forward. And I completely understand that. My job is to evaluate the science. The science every single day, hundreds of papers are being posted that evaluate the immunogenicity of our vaccines, how they

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BLITZER: I know Dr. Fauci said that about 93 million Americans right now are still unvaccinated. Do we know o that 93 million how many actually had COVID and have some antibodies built in? Do they need those who already had COVID, do they need to get these two shots?

WALENSKY: Importantly, yes, they do. So we know that the breadth and depth of your immune response is far expanded when you get the vaccine and that it is important to get vaccinated even if you had COVID. You may have had a different variant. We know now that your rates of getting COVID again are higher if you have not been vaccinated.

BLITZER: And so do we know how many of the 93 million actually had COVID?

WALENSKY: We have data, zero prevalence data across the nation, but I don't know that we can match the people who have been unvaccinated with the zero prevalence data.

BLITZER: With 96.1 percent of the U.S. population in areas which are described as high or substantial transmission that are subject to updated masking guidelines indoors, are changes coming to the recommendations from the CDC on masking outdoors as well?

WALENSKY: Right now, we are not anticipating any changes to our guidance outdoors. Our guidance outdoors is if you are in crowded settings and you are unvaccinated, please do wear a mask. If you are vaccinated and you are going to see immunocompromised people in crowded settings, consider wearing a mask. And we don't anticipate those changes any time soon.

BLITZER: So even if you are in a baseball game or an outdoor concert, will you should still be wearing a mask if there is a big crowd around you? Is that what I'm hearing?

WALENSKY: If you are in a big crowd and you are unvaccinated, absolutely. And if you are vaccinated, we're leaving that to personal discretion.

BLITZER: Dr. Fauci also says that even worse, an even worse -- this is awful to hear this -- an even worse coronavirus variant could be coming beyond delta. Is there a specific variant you're watching right now with concern?

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now in addition to delta. What I can say though is that the more we have viral replication, the more we have transmission, the more we are at risk of a new and emerging variant, and that is why it is so very critical to get vaccinated not just for yourself, for your own personal health, to protect you from severe disease and death but to protect you from transmission to others as well as to protect all of us from seeing a more aggressive emerging variant.

BLITZER: I'm so worried about a new variant that's even worse than delta. And the question is, Dr. Walensky, will our current vaccines hold up against the next, the next variant?

WALENSKY: That's, of course, the concern. And we will have to see what this virus brings. What I can say is that the virus generally mutates and those mutations hold because it is advantageous to the virus. So our job now is to squash the virus and to do so by decreasing chains of transmission through vaccination and masking in the interim

BLITZER: Among the vaccinated right now, the fully vaccinated and, you know, that's a huge part of the country, are there populations within the fully vaccinated, Dr. Walensky, who are more vulnerable right now?

WALENSKY: Among the fully vaccinated, certainly those who are most immunosuppressed, we know that their populations, people had solid organ transplants, people undergoing chemotherapy, people on immune modulating agents.

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We know that those people, despite having been fully vaccinated, they received two doses, may not have complete protection.

BLITZER: Is there any update on when kids, children under 12, will be able to get vaccinated?

WALENSKY: So those data are, of course, going to be with the FDA. I haven't seen them and I'm looking forward to when we will see them hopefully in the next, you know, several months, in the fall. You know, hopefully in the fall before the end of the calendar year.

BLITZER: And I have heard that we're talking about kids 5 to 11 who will be next in line to start getting vaccinated. Is that right?

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is to surround them with vaccinated people.

BLITZER: And to wear masks even if you are vaccinated potentially, right?

WALENSKY: In public indoor settings so that you can shed it when you come home.

BLITZER: As children across the nation are returning and preparing to return to school right now, is an increase in cases around the country, Dr. Walensky, inevitable?

WALENSKY: I think it's really clear that we know how to keep our children safe. We know how to keep our schools safe. Disease comes into the schools from high rates in the community. We know how to keep our community safe. Our children deserve to have full-time in person safe learning with prevention measures in place, and that includes masking for everyone in schools.

BLITZER: Are you getting any early data from places like Georgia, for example, where schools are back in session right now, are you getting any new information already coming in, or is it too early?

WALENSKY: What I can tell you is that we have been following this through the summer both in camps and summer schools and where places did not enforce mitigation strategies, masking, those are the summer schools that had a challenge and had to close down.

BLITZER: What is your reaction to the Florida governor's decision to prevent schools throughout the state of Florida from mandating masks, warning they would be denied state funding if they were to do so?

WALENSKY: I'm a physician. I want our children to be safe. I want them to be safe wherever they live. The best way to keep them safe is to surround them by vaccinated people and to have them where masks in school. I want our kids back to school and I want them back safely, and I want them to be able to safely stay there.

BLITZER: Me too. I think everybody watching wants the kids to be safe in the most effective way.

When did the president, Dr. Walensky, first approach you guys over at the CDC about finding ways to extend what's called the eviction moratorium following the U.S. Supreme Court decision in June? There are a lot of nervous people out there who are fearful that they're going to be kicked out of their homes and become homeless.

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going to impose hundreds of thousands of people were going to have to find congregate settings to live in, we decided to update a new -- well, actually provide a new tailored eviction moratorium so that our places where there was the most disease would not be an increased public health risk by having all of these families and people need to find shelter in congregate settings.

BLITZER: So, there are millions of Americans who have not even gotten one shot right now. What is your message to them? Are there any of those millions who shouldn't be getting a vaccine right now? What's the downside of potentially getting a vaccine?

WALENSKY: My message to those people is to get the information you need. Get it from a trusted source, get it from somebody who understands the science behind it because I do think that if you talk to the people who understand the science, who are trusted to you, you will not need to be convinced to get the vaccine. You will be asking for it.

BLITZER: I have asked you a lot of questions, Dr. Walensky. You have been very generous with your time. Is there anything I didn't ask you, any points you want to make beyond what we have already discussed?

WALENSKY: No, only that we are here for you, we are here for the health of the public, we are asking people to get the information that they need to get vaccinated. This is a difficult, hard, frustrating time. We share that frustration, and we are updating the science and will convey it to you as soon as we have it.

BLITZER: And should we be bracing for the situation to get worse before it gets better?

WALENSKY: I think we should be bracing for a unified nation that can come together and realize that the common foe is COVID-19.

BLITZER: It certainly is. And we're so appreciative, Dr. Walensky, for all you-- for all of what you and your team are doing. We are grateful to you. Thank you so much for joining us.

WALENSKY: Thanks for having me.

BLITZER: Just ahead, we're learning more about a key U.S. Justice Department official who actually aided former President Trump's attempt to try to stage a coup during his final days in office.

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Stay with us. You're in The Situation Room.

(COMMERCIAL BREAK) BLITZER: Last hour, President Biden and Vice President Harris honored the brave men and women who put their lives on the line to defend the U.S. Capitol on January 6th. The president held a ceremony in the White House Rose Garden where he signed an act awarding the officers a congressional gold medal.

This as multiple sources are now telling CNN that the January 6th select committee in the House of Representatives is moving to consolidate all congressional investigations into the insurrection.

Our Justice Correspondent Jessica Schneider is joining us right now with more.

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Jessica, what can you tell us?

JESSICA SCHNEIDER, CNN JUSTICE CORRESPONDENT: You know, Wolf, it isn't uncommon for a select committee to really consolidate all of the work of these committees, so there is not a turf battle, if you will. But what this does mean is that the interviews of the former Acting Attorney General Jeffrey Rosen and his Deputy Richard Donoghue, they will now be delayed. They were expected to happen this week.

And, of course, Rosen and Donoghue, they are expected to eventually give crucial insight into how a Trump ally within the Justice Department, Jeffrey Clark, pushed other top DOJ officials to back those false claims of election fraud.

(BEGIN VIDEOTAPE)

JEFFREY CLARK, FORMER ASSISTANT ATTORNEY GENERAL: Good morning. I'm Jeff Clark. I'm the head of the Civil Division.

SCHNEIDER: Jeffrey Clark was in charge of a Department at DOJ that would have had no role investigating vote proud. But in the weeks after the election, Clark seemed to cozy up to Trump by parroting the president's false

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DONALD TRUMP, FORMER U.S. PRESIDENT: That was a rigged election.

SCHNEIDER: And pushing the Justice Department to step in.

REP. GERRY CONNOLLY (D-VA): Jeffrey Clark, you're a subordinate at DOJ, reportedly told you that your day as acting attorney general were numbered and that DOJ was going to stop Congress from certifying the election results, is that true?

JEFFREY ROSEN, FORMER ACTING U.S. ATTORNEY GENERAL: Congressman, the items you are talking about, I have seen media accounts.

SCHNEIDER: Jeffrey Rosen has never publically confirmed the intense pressure campaign coming from Clark to get the DOJ to help overturn the election for Trump. But new documents and details uncovered in connection with an in-depth probe from the House Oversight Committee shows just how far Clark went. A draft letter dated December 28, 2020 details how Clark planned to write Georgia officials to falsely say DOJ had found voting irregularities that impacted the election outcome in several states. He wanted Rosen and Rosen's deputy, Richard Donoghue, to sign on, but they flat-out refused with Donoghue responding by email, there is no chance that I would sign this letter or anything remotely like this. From where I stand, this is not even within the realm the possibility.

DAVID LAUFMAN, FORMER DOJ CHIEF OF COUNTERINTELLIGENCE: It signifies how perilously close we came to the Department of Justice being weaponized.

SCHNEIDER: Clark's draft letter was dated December 28th, one day after Trump called Rosen and Donoghue, telling them, just say the election was corrupt and leave the rest to me and the Republican Congressmen, according to hand written notes of the exchange. Days later, Trump was on the phone with Georgia's secretary of state pleading.

TRUMP: All I want to do is this. I just want to find 11,780 votes, which is one more than we have.

REP. ADAM SCHIFF (D-CA): I certainly hope that the U.S. Justice Department, as well as Georgia officials, are studying the president's conduct because it seems to cross the line into illegality.

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ELIE HONIG, CNN SENIOR LEGAL ANALYST: It is a federal crime to deprive a state of a fair election. It is a federal crime to solicit false counting of ballots, false certification of an election. It is a federal crime to conspire against the United States.

(END VIDEOTAPE)

SCHNEIDER (on camera): But for now, any criminal charges are extremely unlikely with Congress taking the lead on this investigation of this issue.

And as for Jeffrey Clark, there is no indication he's facing any backlash in the legal community since he was just hired last month to be chief of litigation for a conservative law firm.

But, Wolf, we reached out to his representative. He is declining to comment on any of this.

And as for the investigation here, the Senate Judiciary Committee chairman, Dick Durbin, he says that he does want Jeffrey Clark to testify before his committee. No word on when.

BLITZER: Yes. I suspect he will be at least subpoenaed if he doesn't voluntarily want to show up. All right, Jessica, thank you very much.

Let's discuss this with our Chief Political Correspondent Dana Bash, our Chief Legal Analyst Jeffrey Toobin and our Senior Legal Analyst, Laura Coates.

Jeffrey, as a former Federal Prosecutor yourself, how outrageous was this behavior by Jeffrey Clark to essentially attempt a coup from inside the U.S. Justice Department?

JEFFREY TOOBIN, CNN CHIEF LEGAL ANALYST: You know, it is really bad but it is not nearly as bad as what his boss, his ultimate boss, Donald Trump, did. I think Jeffrey Clark was simply acting out the abuse of power that the president was engaged in.

You know, what's gone on here with the president is so much like what he did when he told the president of Ukraine that he should come up with dirt on President Biden or lose government money. I'm not sure it's a crime.]

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BLITZER: Well, Laura Coates, what do you think?

LAURA COATES, CNN SENIOR LEGAL ANALYST: Well, I think it's outrageous that somebody who would not even oversee elections or voting as the head of the civil division, I was in the civil rights division in the voting section at one point in my career.

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And the idea that it would originate from Jeffrey Clark in a way that actually was adopted by a number of jurisdictions who wanted to promote this big lie and this thought that otherwise fair and free election was anything but that.

The good news here is that his superiors decided that they were not going to do that, that they refused to do so, that they weren't going to be essentially those who are going to be the vehicles of misinformation in this respect.

But what's very troubling here is that the goal was to plant the seeds that ultimately were germinated by people, that ultimately still for people who either when they're looking at the attack on the citadel of our democracy on January 6th or to this day still very much believe that this election was stolen, he was effective in that respect to try to perpetuate it.

And that, you know, it is always this gap, as Jeffrey talked about, between what is criminal and what ought to be illegal. Surely it is unethical. He knew better. We know that in a court of law they would never have promoted these theories because there was no basis. And don't take my word for it. Take the former attorney general, William Barr, who himself said he saw no evidence of widespread voter fraud or otherwise.

BLITZER: Yes. That's exactly right.

You know, Dana, we saw the effort, the violent effort to try to overturn the election unfold during the January 6th insurrection but there was a quiet effort going on behind the scenes inside the Justice Department.

DANA BASH, CNN CHIEF POLITICAL CORRESPONDENT: Yes. And, I mean look, they were very much connected, as Laura was just saying, that what was going on inside the Justice Department was, no doubt, at the

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What happened on January 6th was because of what the president of the United States and those around him were perpetuating, a lie that they were perpetuating up until and including that day, that rally on January 6th. So they are very much connected. They are just different avenues that people who were doing the now former president's bidding were going down.

And, you know, what is interesting about what Jessica was reporting about, the fact that Congress as the select committee and the fact that they're going to try to interview these individuals that we have been reporting on, that that might be why DOJ, the Biden Justice Department, will hold off on even considering whether there is criminal charges to be had here. But they're definitely different things.

I mean, what Congress has to do is get information for the historical record. They don't have the ability to criminally prosecute. That is DOJ. It might just kick the can down the road a little bit. But it doesn't -- I don't think unless their legal colleagues think so that they're mutually exclusive.

BLITZER: Well, let me bring Jeffrey back into this conversation. Jeffrey as you know, a lot of Democrats they're looking to the Attorney General Merrick Garland to investigate this, restore integrity over the Department of Justice. Does he need to take a more aggressive approach here?

TOOBIN: Well, I certainly think there is no problem with an investigation. But, you know, one -- everything we are outraged by is not a crime. And I think, you know, it is very important if you believe in civil liberties to limit criminal violations, limit the prosecution of criminal violations to actual, provable violations of federal law.

I'm not sure that Jeffrey Clark's letter -- in fact, I would be surprised if that is a violation of any criminal law. It is outrageous. It should be condemned. But I think we need to keep a clear line between what's criminal and what's merely outrageous. And the Justice Department, at least so far, seems very determined to do that.

BLITZER: Laura?

COATES: And, you know, on that thought, if I could, you know, one way to find out if there is truly criminal behavior and violations of our federal law is through discovery, in interviews. And what the DOJ, the Justice Department has done essentially through Merrick Garland, excuse me, has been to say, we're not even going to assert the executive privilege that would effectively muzzle those people who would have the information, who could lead that determination. They decided they're not going to assert executive privilege, which normally has

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attorney in the state of Georgia who abruptly resigned. Is there a correlation to this big lie that was promoted by this person as well? Then you have an even bigger story.

So we are really at a premature level now to decide that it is not criminal and the investigation should unfold to figure out if it, in fact, is. But either way, the DOJ is not putting up a roadblock that was up in full effect just a few months ago.

TOOBIN: Merrick Garland has said he's not going to assert attorney client privilege, but President Trump has already said he is going to try to stop his former subordinates from testifying. I don't know if he can do that, but he can get these people to go to court.

[18:40:02]

And if they go to court, it could delay their testimony for months, and that may be as good as stopping it altogether.

BLITZER: All right. Jeffrey, thank you. Laura and Dana, thanks to you guys as well.

Coming up, the New York governor, Andrew Cuomo, is yet to resign. But as pressure mounts, is a resignation near? Stay with us. You're in The Situation Room.

(COMMERCIAL BREAK)

BLITZER: The New York State impeachment investigation into Governor Andrew Cuomo appears to be nearing a conclusion. Let's get some more from CNN's Erica Hill. Erica, how quickly could Governor Cuomo be impeached?

[18:45:00]

ERICA HILL, CNN NATIONAL CORRESPONDENT: The short answer is pretty quickly. So, as you point out, a letter was sent today to Governor Cuomo's attorneys, noting that the Judiciary Committee's impeachment investigations are nearing completion and inviting the governor's attorneys to submit any additional evidence that they would like.

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articles obviously won't be introduced before that.

I can tell you that we earned earlier this week from an assembly speaker who said that everything that developed on Tuesday in that AG's report meant they were going to move expeditiously to conclude this investigation as soon as possible. Now, both the governor's attorney and his director of communications responding to that letter said this morning, they both side they would cooperate. We're grateful for the opportunity, essentially, to contribute more information. I should point out his attorney took the opportunity to criticize the

AG's report accusing the investigators acting as prosecutor, judge and jury rather than independent fact finders.

WOLF BLITZER, CNN HOST: Is there any indication, Erica, that Governor Cuomo will resign? Because this certainly seems like, at least for now, that he's digging in.

HILL: Yeah, I think you hit the nail in the head. I think he is digging in. We see that in a response from his attorneys. We know there have been a number of public calls for him to resign. A lot of people telling him he should not go through this impeachment process.

We learned a little bit about what some of those conversations may have been like behind the scenes. Jay Jacobs, the head of the state's Democratic Party, sharing the governor's response to his conversation with him when he urged the governor to resign.

Take a listen.

(BEGIN VIDEO CLIP)

JAY JACOBS, NEW YORK DEMOCRATIC COMMITTEE CHAIR: He didn't characterize, you know, his views on resignation. He was more directed to how he was going to defend himself. I think he feels that he wants his moment to tell the public his side of the story.

(END VIDEO CLIP)

HILL: Jay Jacobs saying that taped statement the governor put out on Tuesday after the AG's report was released likely didn't land the way he thought it would and perhaps his team. But interesting to note there that the governor

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BLITZER: All right. Erica, thank you very much.

Let's get some analysis from the Washington correspondent for "The New York Times", Maggie Haberman. She's also a CNN political analyst.

Maggie, is it resign or face impeachment at this point, or does Governor Cuomo think he has other options to cling to power? Because any support he thinks he might have seems to be crumbling.

MAGGIE HABERMAN, CNN POLITICAL ANALYST: Wolf, if there was an impeachment vote today, Governor Cuomo would be impeached and pushed out through a Senate trial that I cannot imagine he would want to go through. It's not today. So, I think he is going to try to roll the dice and hang on as long as he can, and hope that he can change some lawmakers' minds. That seems very unlikely just based on the statements that we have seen, and just based on the crumbling of support, nearly universal that has taken place among his key supports, black leaders, union leaders, a number of state assembly officials, among Democrats and every Republican would vote in favor of impeachment.

So, it is hard to see how buying time is going to help him. It is not surprising that's what he's doing unlike, Wolf, in 2002 when he dropped out of the race for governor a couple of days before the Democratic primary, that he was going to lose. He still had a future, and so that was his calculation in doing that.

He does not have a political future now. He is a much older man. There are not many options. That report is seen as very damning.

And so, I think he will ride this out as soon as possible. The prospect of being impeached I think is devastating to him. I think as it gets closer, if the facts don't change, if he can't corral any lawmakers to his side, then I think it is more than likely that he'll resign.

BLITZER: Nixon decided that he would resign rather than get impeached and convicted.

HABERMAN: Right.

BLITZER: The letter says the New York state assembly will consider potential articles of impeachment. How

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HABERMAN: It really depends, Wolf. It could happen fairly quickly. There could be a vote within several days of that happening. There's a push by Republicans to try to have various probes that are going on into the New York governor. It takes place in this impeachment probe at the same time, or at least be part of the same impeachment vote. That's all going to get ironed out.

But it could happen very quickly. Remember, there is no hard and fast rule in New York state's laws about how the impeachment process would go. They get to sort of make it up as they go along. Again, I don't think that Andrew Cuomo will stick it out for a trial. I think when there is a vote nearing is when you will see a potential breaking report.

BLITZER: According to the report released this week, Governor Cuomo never bothered to complete his own sexual harassment training program, while at the same time he was harassing women, touting himself as a leader on this issue.

[18:50:10]

Does that speak to how he operates?

HABERMAN: What I think it speaks to is a culture in that office. Again, I do want to say, you'd have to read the report. I think he says he doesn't remember whether that's true. It speaks to the fact that there is an important aspect of I think it's gotten overlooked a lot.

It isn't that he's accused of harassing multiple women, 11 women working in his office. It's that he created a workplace culture of toxicity after passing laws against such a thing. So, it wasn't just that he was harassing, is that he was violating his own laws, to your point.

I don't know it speaks to how he operates necessarily. I think it speaks to the fact that he was more than willing to act as if -- actually he was more than willing to put into place laws that essentially, according to this report, he was not willing to follow along with, and refer other people. The idea that you would have a subordinate fill out and complete training that you have subjected other people to in their workplace speaks volumes about, you know, sort of how he views power.

Now, again, he has denied all this. I am really curious to see what their denials are, because they keep stressing

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BLITZER: We certainly will.

Maggie Haberman, thank you very much.

Just ahead, the Arkansas Governor Asa Hutchinson is standing by. He will join us live. We will discuss the worst of the coronavirus surge and the role mask can play in fighting it.

We'll be right back.

(COMMERCIAL BREAK)

[18:55:53]

BLITZER: The coronavirus pandemic is surging all across the United States with the CDC now reporting more than 100,000 cases in a single day and the situation is especially dire in places with low vaccination rates. For that and more, I want to bring in the governor of Arkansas, Asa Hutchinson.

Governor, thank you so much for joining us.

As you know, the coronavirus transmission is soaring in your state right now. You say you regret signing a bill earlier this year that banned mask requirements in schools. So, why did you think putting a ban in place was a good idea? What are you doing now to correct that mistake?

GOV. ASA HUTCHINSON (R-AR): Well, at the time that we put that law into place, that banned mask mandates but also vaccine passports, our cases were very, very low. It looked like we were at the end of this pandemic. I felt comfortable at the time signing it.

And obviously, this virus threw us another curve. The delta variant came in. Our cases have gone up. And now we're looking at going back to school, and our focus is on the vaccines. But there is still a gap there, because under 12 cannot be vaccinated. We need some method and flexibility from local school districts to protect them. So I called the general assembly back into session and the governor to

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decision-making.

The legislatures been meeting for a couple days. They have not reached approval of this. They'll come back tomorrow and it's also in the courts being reviewed as to whether that law is constitutional.

So we'll see how this develops tomorrow. But that's the reason I called them back into session.

BLITZER: Well, it's a good reason, because this delta variant, as you know, is highly, highly transmissible. Much worse than the original virus.

What's your message, Governor, to some of your fellow Republican governors who are fueling misinformation about simply wearing a mask, including the Florida Governor Ron DeSantis, who has gone so far as to threaten to pull funding from local school districts that actually would institute mask mandates?

HUTCHINSON: Well, Wolf, I'm not getting into what's happening in Florida. That's the beauty of our system, that every state and governor manages it with their legislature and it reflects the culture of their state.

So, I just got a look at what we are doing here in Arkansas and this made common sense to me. One, promoting vaccines, we've got to get those out. That's the first level. Secondly, there is the gap again.

And my judgment is that's a conservative view that local school districts out to be able to make decisions, themselves. Some of the rural ones will say, no, we don't need that. Other urban school districts, they want to have more protection. They might adopt that protective measure and they ought to have the right to do that. It's very simple. That's the approach.

BLITZER: But if they want to go ahead and mandate masks, you wouldn't pull state funding to those school districts, would you?

HUTCHINSON: Well, no. I mean, again, I believe they ought to have that prerogative particularly whenever they're under 12.

But that's -- that's local control. Whenever you are looking at -- I think the debate we're getting off track here, the debate right now is on masks and it shouldn't be. It ought to be on the work of getting vaccines out. That's the

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BLITZER: Right.

HUTCHINSON: -- priority that I have. But we got that gap we got to cover.

BLITZER: And you want everyone in Arkansas to get vaccinated, right? HUTCHINSON: Well, absolutely. I've gone to I believe it's 12 cities. I

will be going to two more cities next week having conversations for those that doubt, have questions, honesty. We're not shaming anybody, providing good information.

BLITZER: That's so, so important. It could save a lot of live.

Governor Asa Hutchinson from Arkansas, thanks so much for joining us always. You are always welcome to THE SITUATION ROOM.

And to our viewers, thanks for watching.

"ERIN BURNETT OUFRONT" starts right now.

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